

## CHALLENGES TO THE FREEDOM OF SPEECH ON COLLEGE CAMPUSES: PART II

Testimony provided to the  
United States House of Representatives  
Committee on Oversight and Government Reform

May 2018

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In my prior role as a tenured professor at the University of Pennsylvania, I founded an interdisciplinary research center focused on race in education, workplace settings, and our larger society. I relocated that center with me to the University of Southern California last summer. I have spoken about the center's studies and my independent research at hundreds of colleges and universities across the United States. Surely, not every person on campuses at which I have spoken found my ideas and research findings agreeable. Notwithstanding, I have never had a speaking invitation withdrawn or had any group publicly protest a speech I delivered. I am grateful to have been shown the respect I think I deserve as a scholar. It is important to acknowledge, however, that university administrators absolutely reserve the right to rescind speaking invitations they extend to me or anyone else. As a matter of fact, they almost always make this painstakingly clear in contractual agreements. These contracts are between institutions and their invited guests; I see no need for congressional intervention.

For at least three reasons, tuition-paying students have the right to protest people who bring hateful and poisonous messages to their communities. First, it is their campus; they pay to be there. Students have to learn (and in the case of residential institutions, live) there long after expensive, controversial speakers have come and gone. Second, student activity fee money is often used to fund speakers, including those whom College Republicans and other conservative student groups invite. Most people feel they have a say in something their money helps finance; college students who pay tuition and fees are entitled to oppose giving thousands of their dollars to an inflammatory, divisive guest speaker. Third and most importantly, college students and their professors have the constitutional right to protest. Their freedom of speech is just as valuable as controversial speakers' and their supporters'.

My Ph.D. is in higher education; this has been my primary academic field of study for two decades. Hence, I have deep appreciation for colleges and universities as marketplaces of contested ideas and sites of serious intellectual debate. Having been elected by colleagues in my research community to serve as national president of the Association for the Study of Higher Education, I feel a serious sense of responsibility to help protect this fundamental principle. I wholeheartedly agree that more speech, not less, advances the democratic purposes of American higher education. Sending millions of college-educated citizens into the workforce every year with little experience talking with people who politically disagree with them is a serious failure of our nation's postsecondary institutions. But my research also shows that we send far too many future congresspersons, governors, lawyers, K-12 school teachers, college professors, and leaders in other industries into the workforce without a proper course of study on race, racism, and racial inequity. Executives and top decision-makers in most sectors of our economy are college graduates, and a disproportionate share of them are white. Given that white Americans

comprise 94% of governors,<sup>1</sup> 93% of the U.S. Senate,<sup>2</sup> 78% of the U.S. House of Representatives,<sup>3</sup> 80% of K-12 school teachers,<sup>4</sup> 71% of college faculty members,<sup>5</sup> and 87% of college presidents,<sup>6</sup> postsecondary institutions act irresponsibly when we fail to create conditions that bring together whites and students of color to talk and learn across racial lines. This, as I see it, is a matter of institutional responsibility.

Studies from the USC Race and Equity Center consistently confirm that unless students are required to take ethnic studies or other racially-focused courses, they could easily matriculate through four or more years of college without ever engaging in a meaningful conversation about race. This largely applies to learning about gender and sexual orientation as well. This, not overblown concerns about assaults on free speech, must be addressed on campuses. According to the U.S. Department of Education, our country has 4,724 degree-granting postsecondary institutions. Shouting down and rescinding invitations from Milo Yiannopoulos, Ann Coulter, Ben Shapiro, and other highly compensated conservative speakers is an issue plaguing only a tiny fraction of these institutions. Avoidance of deep learning about race and other dimensions of diversity, equity, and inclusion inside of classrooms, residence halls, and other spaces is the bigger, much more pervasive problem that ignites campus conflicts. In my expert opinion, this is for the campuses, not for the United States Congress, to address.

College student activists are often accused of attempting to suppress their professors' speech. In 2016, there were 815,760 full-time instructional faculty members at degree-granting postsecondary institutions; this number includes tenure track professors, as well as non-tenure track lecturers and instructors.<sup>7</sup> Reports of attempted speech suppression are low and sporadic, not widespread. Even if 5,000 professors (a hypothetically high number) experienced encounters with student activists and other so-called speech suppressors on their campuses, that would be just 0.6% of postsecondary faculty members in the United States. This seems like such a low number to warrant so much national conversation about freedom of speech supposedly being under attack in higher education.

I have repeatedly referenced in this testimony the studies conducted at the research center I founded at Penn and now direct at USC. It seems important to offer more detail about our work. Over the past 11 years, center researchers and I have conducted climate assessments at dozens of colleges and universities in every geographic region of the country. Our process entails spending 3-4 full days conducting focus group interviews with people of color and their white counterparts on a campus. Most of our assessments have been focused on students; some others have been focused on assessing the racial climate for employees at all levels. More than 10,000 college students have been interviewed for our climate assessments. Having watched the first part of this congressional hearing, I feel a responsibility to use data from our climate studies to correct some fundamental misunderstandings of five key terms and concepts that are often associated with college student activists: microaggressions, trigger warnings, safe spaces, bias response teams, and intersectionality.

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<sup>1</sup> Source: National Governors Association: <https://www.nga.org/cms/governors/bios>

<sup>2</sup> Source: United States Senate (<https://www.senate.gov>)

<sup>3</sup> Source: United States House of Representatives (<https://www.house.gov>)

<sup>4</sup> Source: U.S. Department of Education. (2017). Digest of education statistics, 2016 (Table 209.20). Washington, DC: Institute of Education Sciences, National Center for Education Statistics.

<sup>5</sup> Source: U.S. Department of Education. (2017). Digest of education statistics, 2016 (Table 315.20). Washington, DC: Institute of Education Sciences, National Center for Education Statistics.

<sup>6</sup> Cook, B. J. (2012). The American college president study. Washington, DC: American Council on Education.

<sup>7</sup> Source: U.S. Department of Education. (2017). Digest of education statistics, 2016 (Table 315.20). Washington, DC: Institute of Education Sciences, National Center for Education Statistics.

**Microaggressions** are subtle, seemingly innocuous insults experienced by people of color, women, and other marginalized populations on campuses. Critics often reduce microaggressions to unreasonable, petty complaints from whiny students who are easily insulted. As late Harvard Law School Professor Chester Pierce,<sup>8</sup> Columbia University Professor Derald Wing Sue,<sup>9</sup> UCLA Professor Daniel G. Solórzano,<sup>10</sup> and other scholars make clear in their pioneering research, it is not one-time encounters with microaggressions that make them injurious. Instead, it is the accumulation of them that inflicts harm. One popular clarifying metaphor involves paper cuts. A single paper cut stings, it is annoying, but the stung person manages to quickly get over it. But getting paper cuts daily, sometimes several times per day, can lead to an array of more painful outcomes. This is how students of color in our studies talk about racial microaggressions. Noteworthy is that on all but one campus where we have conducted climate assessments, one or more Black students have been called niggers. This is not a microaggression, but instead a common, far more extreme expression of overt racism.

**Trigger Warnings** give students advance notice that particular content may engender psychological or emotional harm. They are to campuses what X- or R-ratings are to movies, MA-ratings are to television, and explicit content warnings are to music albums. For many years, I showed a film in a course I taught at Penn that included a rape scene. A woman who had been raped asked to speak with me after class one year. She reasonably suggested that it would have been thoughtful of me to let the students know the movie included sexual assault. This student said I could have paused the film just prior to that moment, given students an opportunity to excuse themselves until the scene ended, and then invited them back in to watch the rest of it. Note that she did not infringe on my academic freedom by saying I must never again show that film in any class I teach. But a heads up, she maintained, would have been helpful. This is the degree of reasonableness that students across all racial groups express when they talk about trigger warnings in our climate studies.

**Safe Spaces** are restorative places on campus for marginalized, often severely underrepresented students and their supporters. In one of my published academic studies seven years ago, I introduced the concept of “Onlyness” to describe students’ experiences when they are the only one or one of only a few people from their racial groups in a campus space.<sup>11</sup> Most Black and Latino students who participate in the USC Race and Equity Center’s campus climate assessments tell us they encounter onlyness in just about every class they take, on their residence hall floors, and in many other campus spaces that are overwhelmingly white. They consider ethnic cultural centers to be safe spaces where they can retreat from the microaggressions and other daily forms of racial stress they encounter. Female collegians tell us that women’s centers play these same important roles for them. We often hear from participants in our research that classrooms are the most unsafe spaces for them on campus. Critics typically characterize colleges and universities as dangerously liberal. Many women and the overwhelming majority of students of color in our climate studies describe their campuses as destructively conservative, hence the need for spaces like cultural centers.

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<sup>8</sup> Pierce, C. (1974). Psychiatric problems of the Black minority. In S. Arieti (Ed.), *American handbook of psychiatry* (pp. 512-523). New York: Basic Books.

<sup>9</sup> Sue, D. W. (2010). *Microaggressions in everyday life: Race, gender, and sexual orientation*. Hoboken, NJ: Wiley.

<sup>10</sup> Solórzano, D. G. and Pérez Huber, L. (2012). Microaggressions, racial. In J. Banks (Ed.), *Encyclopedia of Diversity in Education* (pp. 1489-92). Thousand Oaks, CA: SAGE.

<sup>11</sup> Harper et al. (2011). Race and racism in the experiences of Black male resident assistants at predominantly White universities. *Journal of College Student Development*, 52(2), 180-200.

**Bias Response Teams** help ensure due process. Instead of administrators relying on anecdotes and little information to punish people who have been accused of wrongdoing, they empower a team of investigators to collect evidence. This is no different than a human resources department in a corporation having a team look into employees' reports of sexual assault or racial discrimination. One major difference between bias response teams and compliance officers, private investigators, or legal counsel is that they are comprised of multiple campus community members who understand the context. I have seen no evidence to confirm that bias response teams are somehow biased in the execution of their investigative work.

**Intersectionality** is a term Kimberlé Williams Crenshaw, a Columbia University Law School professor, introduced in a University of Chicago law review article nearly three decades ago.<sup>12</sup> It was originally crafted to help the Courts and legal scholars understand the compounding effects of race, gender, socioeconomic status, and other markers of social position on legal outcomes for Black women. Somehow, intersectionality was misunderstood in Part 1 of this congressional hearing to be some sort of weapon against white men. I have never heard a participant in any study I have conducted misuse the term intersectionality to suggest that white men's lives and perspectives are in any way less valuable than are theirs. In fact, women across all racial groups often tell us that most of their professors are men, masculine perspectives dominate the curriculum, and most readings assigned to them are written by male authors. Similarly, students of color often tell us that most of their professors are white, Eurocentric and white cultural perspectives dominate the curriculum, and most readings assigned to them are written by white scholars. Intersectionality in the context of U.S. higher education helps us understand how women of color uniquely experience the simultaneous erasure of women and people of color, as well as the dominance of men and white people in college curricula and campus spaces.

Most colleges and universities (including my own) host dozens, sometimes hundreds of speakers each year who bring a wide range of scholarly, political, ideological, and comedic views to campus. Like me, the overwhelming majority of these speakers do not experience protests. But unlike the few speakers who do (many of whom are paid entertainers, not academicians), I would invite student protesters into a conversation with me about our ideological and factual disagreements. I would insist that those who support my viewpoints make space to respectfully listen to and talk with others who do not. Entertainers are not usually so generous; it is likely not in their financial or celebrity interests to engage disagreeable students in such educationally patient ways. Facilitating dialogue and learning across partisan and racial lines is not often the entertainer's aim. This responsibility ought not rest entirely with handsomely compensated campus visitors. It really does belong to college presidents, other senior leaders, and faculty members like me. But one major problem is that few of us who work in higher education were ever taught how to responsibly handle these contested issues. Getting administrators and faculty members the professional preparation we need to effectively deal with rare instances of contested speech on campus is not an issue for Congress or the Courts, but instead is the responsibility of those entrusted with institutional governance (e.g., regents and boards of trustees).

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<sup>12</sup> Crenshaw, K. (1989). Demarginalizing the intersection of race and sex: A black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. University of Chicago Legal Forum, 1(8), 139-167.

**Committee on Oversight and Government Reform**  
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Date: May 17, 2018

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